

AO 120 (Rev. 08/10)

TO:	<p align="center"> Mail Stop 8 Director of the U.S. Patent and Trademark Office P.O. Box 1450 Alexandria, VA 22313-1450 </p>	<p align="center"> REPORT ON THE FILING OR DETERMINATION OF AN ACTION REGARDING A PATENT OR TRADEMARK </p>
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In Compliance with 35 U.S.C. § 290 and/or 15 U.S.C. § 1116 you are hereby advised that a court action has been filed in the U.S. District Court on the following

☐ Trademarks or ☐ Patents. (☐ the patent action involves 35 U.S.C. § 292.);

DOCKET NO.	DATE FILED	U.S. DISTRICT COURT	
PLAINTIFF		DEFENDANT	
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK	
1			
2			
3			
4			
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In the above—entitled case, the following patent(s)/ trademark(s) have been included:

DATE INCLUDED	INCLUDED BY <input type="checkbox"/> Amendment <input type="checkbox"/> Answer <input type="checkbox"/> Cross Bill <input type="checkbox"/> Other Pleading	
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK
1		
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In the above—entitled case, the following decision has been rendered or judgement issued:

DECISION/JUDGEMENT

CLERK	(BY) DEPUTY CLERK	DATE
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Copy 1—Upon initiation of action, mail this copy to Director Copy 3—Upon termination of action, mail this copy to Director
Copy 2—Upon filing document adding patent(s), mail this copy to Director Copy 4—Case file copy

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 1:24-cv-22149-LEIBOWITZ

TUSHBABY, INC.,

Plaintiff,

v.

FLEEROSE,

Defendant.

_____ /

ORDER

THIS CAUSE is before the Court on Defendant’s unopposed Motion to Consolidate [ECF No. 22] (the “Motion”), filed on October 16, 2024. In the Motion, Defendant asks the Court to consolidate this declaratory judgment action with previously consolidated copyright infringement actions – *Tushbaby, Inc. v. The Corporations, Limited Liability Companies, and Unincorporated Associations Identified on Schedule A*, No. 1:24-cv-21136-LEIBOWITZ (S.D. Fla.) (hereinafter “consolidated action”).

The district court has “inherent managerial power” to “control the disposition of the causes on its docket with economy of time and effort for itself, for counsel, and for litigants.” *Young v. City of Augusta, Ga. Through DeVaney*, 59 F.3d 1160, 1168 (11th Cir. 1995) (citation omitted). Under Federal Rule of Civil Procedure 42, a district court “may” consolidate cases where they “involve a common question of law or fact.” Fed. R. Civ. P. 42(a)(2); see *Newman v. Eagle Bldg. Techs.*, 209 F.R.D. 499, 501 (S.D. Fla. 2002). These cases share both.

In the instant case, Plaintiff seeks a declaratory judgment that it did not infringe upon Defendant’s patent [ECF No. 1]. Infringement, albeit copyright infringement, is also at issue in Defendant’s counterclaims asserted in the consolidated action. See *Tushbaby, Inc. v. The Corporations, Limited Liability Companies, and Unincorporated Associations*, No. 1:24-cv-21136-LEIBOWITZ (S.D. Fla.),

Answer to Second Amended Complaint, ECF No. 90 at 21–22 (Sept. 16, 2024). Even though the legal theory of infringement differs in the actions, the product alleged to be infringed is the same. Further, Plaintiff's factual allegations in both complaints are very similar. *Compare* ECF No. 1 *with* ECF No. 76 (consolidated case). And, finally, both cases involve the same Plaintiff, the same Defendant, and the same object of their infringement dispute. Consequently, consolidation is appropriate. Accordingly, and upon due consideration, it is hereby **ORDERED AND ADJUDGED** as follows:

1. The Motion [ECF No. 22] is **GRANTED**.
2. **The Clerk of Court** shall CONSOLIDATE this case *Tushbaby, Inc. v. Fleerose*, No. 1:24-cv-22149-LEIBOWITZ (S.D. Fla.) with consolidated case *Tushbaby, Inc. v. The Corporations, Limited Liability Companies, and Unincorporated Associations Identified on Schedule A*, No. 1:24-cv-21136-LEIBOWITZ (S.D. Fla.). All future pleadings, motions, or other papers shall be filed in case number 1:24-cv-21136-LEIBOWITZ and bear only the caption of that case.
3. All motions pending in case number 1:24-cv-22149 are **DENIED as moot** and must be re-filed in case number 1:24-cv-21136.
4. **The Clerk of Court** is directed to CLOSE this case (1:24-cv-22149).

DONE AND ORDERED in the Southern District of Florida on October 17, 2024.


DAVID S. LEIBOWITZ
UNITED STATES DISTRICT JUDGE

cc: counsel of record